

ORDINANCE NUMBER O- 20855 (NEW SERIES)DATE OF FINAL PASSAGE SEP 20 2017

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 6,
DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTIONS 26.0404 AND 26.0406, RELATING TO
THE APPOINTMENT AND QUALIFICATION OF MEMBERS
OF THE ETHICS COMMISSION.

WHEREAS, San Diego Charter section 41(d) provides that an Ethics Commission (the Commission) may be “established by ordinance of the Council”; and

WHEREAS, the Commission is established in the San Diego Municipal Code under Chapter 2, Article 6, Division 4, to monitor, administer, and enforce the City’s governmental ethics laws, and other duties set forth in that Division; and

WHEREAS, the Municipal Code provides that the Commission shall consist of seven members appointed by the Mayor from a pool of nominees submitted by members of the City Council and the City Attorney, subject to confirmation by a majority of the City Council; and

WHEREAS, the Municipal Code provides that the members shall serve staggered four-year terms; each member shall serve until a successor is duly appointed and confirmed; and all terms must have expiration dates of June 30; and

WHEREAS, the Municipal Code provides that the Commission shall reflect the diversity of the City, and include: (1) at least one person who has been a candidate for an elective governmental office, has worked as a treasurer or other high-level position in a campaign for elective governmental office, or has held an elective governmental office; and (2) at least two attorneys in good standing with the California Bar Association; and

WHEREAS, the Municipal Code also requires that no more than three members of the Commission shall be registered with the same political party; and

WHEREAS, in a May 11, 2017 memorandum to the Council President, Councilmember Scott Sherman and Councilmember David Alvarez proposed amending the Municipal Code provisions addressing the appointment and qualifications of Commission members; and

WHEREAS, the two Councilmembers stated that, due to the complex subject matter handled by the Commission, “the City is best served when Commissioners have previous knowledge and experience with the complicated intersection of campaign finance, law, and government ethics,” and that San Diego “should emulate best practices of other California cities’ Ethics Commissions in order to ensure the public is well served”; and

WHEREAS, the proposed amendments were considered by the Rules Committee on June 7, 2017, modified in part, and then the Committee voted to submit several of the proposed amendments to the Council; and

WHEREAS, the Council now seeks to adopt the proposed amendments forwarded by the Rules Committee; and

WHEREAS, this ordinance amends the Municipal Code to state that “[p]riority consideration shall be given to nominees with familiarity and experience with campaign finance laws, government ethics and lobbying laws, and conflict of interest regulations”; and

WHEREAS, this ordinance also amends the Municipal Code to increase, from two to three, the required number of attorneys serving on the Commission; and

WHEREAS, this ordinance also amends the Municipal Code to increase, from one to two, the number of Commissioners serving on the panel who shall “have been a candidate for an

elective governmental office, have worked as a treasurer or in another high-level position in a campaign for elective governmental office, or have held elective governmental office”; and

WHEREAS, this ordinance also amends the Municipal Code to clarify language and to confirm that restrictions on seeking public office apply to elective offices in the City of San Diego; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. Chapter 2, Article 6, Division 4 of the San Diego Municipal Code is amended by amending sections 26.0404 and 26.0406, to read as follows:

§26.0404 Appointment

- (a) [No change in text.]
- (b) The *Commission* and its nominees for appointment shall reflect the diversity of the *City* which it serves. Priority consideration shall be given to nominees with familiarity and experience with campaign finance laws, government ethics and lobbying laws, and conflict of interest regulations. At least two of the members of the *Commission* shall have been a candidate for an *elective governmental office*, have worked as a treasurer or in another high-level position in a campaign for *elective governmental office*, or have held *elective governmental office*, and at least three of the members of the *Commission* shall be attorneys in good standing with the State Bar of California. No more than three members of the *Commission* shall be registered with the same political party. Each nominee shall be a qualified elector of the *City*, although when a person with unique qualifications is able to serve, and who is a qualified elector of San Diego

County but not the *City*, an exception may be made and such person may be considered eligible for nomination to the *Commission*. No person who ran as a candidate against a current elected *City Official*, or who served in a staff capacity for the campaign of such a candidate, shall be eligible for nomination to the *Commission*. The members of the City Council and the City Attorney shall identify the requirements fulfilled by each of their nominees.

(c) [No change in text.]

(d) [No change in text.]

§26.0406 Qualification of Members

Each member of the *Commission* shall comply with the following qualifications during his or her tenure on the *Commission*:

(a) through (d) [No change in text.]

(e) No member of the *Commission* shall become a candidate for *elective governmental office* in the *City* during his or her tenure on the *Commission*, and for twelve months thereafter. Whether or not a Commissioner has become a candidate for *elective governmental office* in the *City* will be determined by applying the appropriate laws and regulations governing the office sought. Each prospective Commissioner shall sign a written declaration agreeing not to run for *elective governmental office* in the *City* for at least twelve months after completion

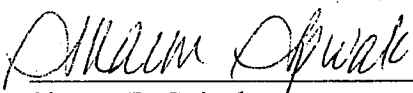
of service on the *Commission*, and waiving the legal right to challenge this provision.

(f) [No change in text.]

Section 2. A full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Sharon B. Spivak
Deputy City Attorney

SBS:jdf
07/21/17
Or.Dept: Rules Committee
Doc. No.: 1532364_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of SEP 12 2017.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 9/19/17
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

(Note: The date of final passage is September 20, 2017, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.)

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

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§26.0404 Appointment

(a) [No change in text.]

(b) The *Commission* and its nominees for appointment shall reflect the diversity of the ~~City~~ City which it serves. Priority consideration shall be given to nominees with familiarity and experience with campaign finance laws, government ethics and lobbying laws, and conflict of interest regulations. At least ~~one~~ two of the members of the *Commission* shall ~~be a person who~~ has ~~have~~ been a candidate for an *elective governmental office*, ~~has~~ have worked as a treasurer or in ~~another~~ high-level position in a campaign for *elective governmental office*, or ~~who has~~ have held ~~elective governmental office~~ elective governmental office, and at least ~~two~~ three of the members of the *Commission* shall be attorneys in good standing with the ~~California Bar Association~~ State Bar of California. No more than three members of the *Commission* shall be registered with the same political party. Each nominee shall be a qualified elector of the ~~City of San Diego~~ City, although when a person with unique qualifications is able to serve, and who is a

qualified elector of San Diego County but not the ~~City of San Diego~~City, an exception may be made and such person may be considered eligible for nomination to the *Commission*. No person who ran as a candidate against a current elected *City Official*, or who served in a staff capacity for the campaign of such a candidate, shall be eligible for nomination to the *Commission*. The members of the City Council and the City Attorney shall identify the requirements fulfilled by each of their nominees. ~~The nominations shall reflect the diversity of the community.~~

(c) [No change in text.]

(d) [No change in text.]

§26.0406 Qualification of Members

Each member of the *Commission* shall comply with the following qualifications during his or her tenure on the *Commission*:

(a) through (d) [No change in text.]

(e) No member of the *Commission* shall become a candidate for *elective governmental office in the City* during his or her tenure on the *Commission*, and for twelve months thereafter. Whether or not a Commissioner has become a candidate for *elective governmental office in the City* will be determined by applying the appropriate laws and regulations governing the office sought. Each prospective Commissioner shall sign a written declaration agreeing not to run for *elective governmental office in the City* for at least twelve months after completion

of service on the *Commission*, and waiving the legal right to challenge
this provision.

(f) [No change in text.]

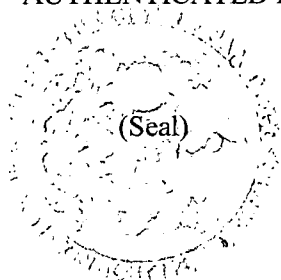
SBS:jdf
07/21/17
Or.Dept: Rules Committee
Doc. No.: 1529268_2

Passed by the Council of The City of San Diego on SEP 12 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 20 2017

AUTHENTICATED BY:



KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

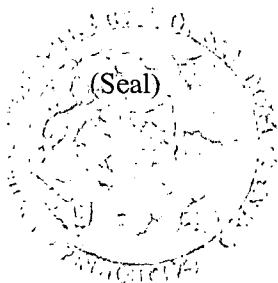
By Ginda Kruein, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JUL 31 2017

, and on SEP 20 2017

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.



ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Ginda Kruein, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20855